

Message Text

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TO SECSTATE WASHDC 3089

C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 03382

FROM LOSDEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS CONFERENCE DAILY SUMMARY - AUGUST 29

SUMMARY: NG-1 ADDRESSED ANNEX II OBLIGATIONS. THE MIT MINING MODEL WAS EXPLAINED TO NG-2 DELEGATES. THE VARIOUS CONTINENTAL SHELF FORMULAE WERE SUPPORTED AND ATTACKED IN NG-6. DISPUTE SETTLEMENT MODELS WERE DISCUSSED IN NG-7. A BROAD SPECTRUM OF DELEGATIONS QUESTIONED THE RESPONSIBILITY AND LIABILITY PROPOSAL FOR ARTICLE 236 IN THE THIRD COMMITTEE. END SUMMARY.

1. NG-1 (EXPLORATION AND EXPLOITATION) CONTINUED DISCUSSION OF PARA 1 (ANNEX II). THERE WAS A SIGNIFICANT INTERVENTION BY THE USSR IN WHICH THE SOVIETS PROPOSED THAT ARTICLE 137, PARA 2 ALSO BE TAKEN UP IN CONNECTION WITH THE DISCUSSION OF THE LEGAL CONCEPTS UNDERLYING OWNERSHIP OF RESOURCES AND MINERALS. THE USSR SUGGESTED DELETION OF REFERENCE TO THE AUTHORITY ACTING
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"ON BEHALF OF" MANKIND. PERU, SPEAKING FOR THE G-77, REJOINED THAT IF THE USSR INSISTED ON PURSUING A REVIEW OF SUCH FUNDAMENTAL CONCEPTS THEN THE G-77 WOULD REVERT TO ITS ORIGINAL POSITION THAT SEABED RESOURCES SHOULD BE OWNED DIRECTLY BY THE AUTHORITY. CANADA SUGGESTED THAT A SMALLER INFORMAL GROUP TAKE UP ISSUES IDENTIFIED IN THE GENERAL MEETINGS.

2. ON PARA 2 (PROSPECTING), JAPAN SUGGESTED DELETION OF THE OBLIGATION TO TRAIN PERSONNEL, AND POINTED TO ARTICLE 144 AS THE PROPER PLACE TO DEAL WITH THIS ISSUE. THE UK SUGGESTED ELIMINATING REFERENCES TO BOTH TRAINING OF PERSONNEL AND DATA TRANSFER, AND INSTEAD DEALING WITH THESE ISSUES IN OTHER PARTS OF THE ANNEX IN GREATER DETAIL. THE US AGREED THAT TRAINING AND DATA TRANSFER REFERENCES SHOULD BE REMOVED, AND POINTED OUT THE HIGHLY PROPRIETARY AND SENSITIVE NATURE OF PROSPECTING DATA. G-77 REPS (TANZANIA, COLOMBIA, TUNISIA) TOOK THE LINE THAT THE RIGHT TO PROSPECT IS VALUABLE AND THAT "THEY" SHOULD BE COMPENSATED IN SOME WAY FOR ALLOWING PROSPECTORS ACCESS TO THE AREA. PERU, IN ADDITION TO VOICING THESE SENTIMENTS, AGREED WITH THE UK THAT MORE DETAILED WORK SHOULD BE DONE TO DEFINE THE OBLIGATIONS OF PROSPECTORS, BUT DID NOT AGREE THAT REFERENCES IN PARA 2 TO THOSE OBLIGATIONS SHOULD NECESSARILY BE DELETED. PARA 3 WILL BE TAKEN UP AUGUST 30.

3. NO NG-2 MEETING WAS SCHEDULED SO THAT SELECTED DELEGATES COULD ATTEND A QUAKER-SPONSORED SEMINAR ON THE MASSACHUSETTS INSTITUTE OF TECHNOLOGY (MIT) COST MODEL OF A HYPOTHETICAL SEABED MINING PROJECT. NG-2 CHAIRMAN KOH CHAIRED THE MEETING AT WHICH PROFESSOR NYHART AND HIS STAFF FROM MIT EXPLAINED THE COMPLICATED FACETS OF CONFIDENTIAL

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SEABED MINING COSTS. THE SEMINAR WAS VERY CONSTRUCTIVE FOR TWO REASONS. FIRST, THE MIT MODEL GAINED ACCEPTANCE AMONG MORE OF THE G-77 AS A BASIS FOR NEGOTIATION. SECOND, AFTER A HEATED DEBATE, THE G-77 DELEGATES WERE DISCOURAGED FROM MAKING US TAX LEGISLATION ON SEABED MINING A SUBJECT OF NEGOTIATION. IN ADDITION, DR. JAGOTA (INDIA) SEEMED TO HAVE ACCEPTED THAT HIS PROPOSAL--FOR A 60 MILLION DOLLAR FRONT-END FEE PLUS--WAS UNREALISTIC SINCE THE MIT ASSUMPTIONS SHOW THAT IT PRODUCES ONLY A 6.68 BASELINE RATE OF RETURN.

THE EEC REPS MAINTAINED THEIR RESERVATIONS ABOUT THE MIT MODEL BECAUSE THEY BELIEVE IT IS UNREALISTICALLY OPTIMISTIC.

4. NG-3 (ORGANS OF THE AUTHORITY) MET UNDER CHAIRMAN ENGO TO CONTINUE THE REVIEW OF ARTICLES 161-163 BUT THERE WERE NO SIGNIFICANT INTERVENTIONS.

5. NG-6 (CONTINENTAL SHELF) DEBATE CONTINUED ON THE DEFINITION OF THE OUTER LIMIT OF THE CONTINENTAL SHELF BEYOND 200 MILES. THE IRISH FORMULA WAS SUPPORTED BY THE

PRC, COLOMBIA, CHILE, FRANCE, PERU, URUGUAY AND AUSTRALIA. THE PRC, IN A NON-POLEMICAL SPEECH, POINTEDLY DISAGREED WITH THE SOVIET THESIS AND SUPPORTED THE IRISH FORMULA. IN A SIGNIFICANT INTERVENTION, COLOMBIA FOR THE FIRST TIME BACKED THE IRISH FORMULA. (IN THE PAST, COLOMBIA HAD BEEN A LEADING PROPONENT OF THE 200-MILE THESIS). CHILE AND PERU, IN SUPPORTING THE IRISH FORMULA, INDICATED THAT THE NG-6 NEGOTIATION IS SELF-CONTAINED AND IS NOT LINKED TO OTHER ISSUES (READ COMPULSORY DISPUTE SETTLEMENT REGARDING DELIMITATION BETWEEN OPPOSITION AND ADJACENT STATES). IN ADDITION, CHILE SAID THAT THE IRISH FORMULA WAS A VALID INTERPRETATION OF THE 1958 GENEVA CONVENTION EXPLOITABILITY TEXT. HE FURTHER INDICATED THAT, WITH REGARD TO UNILATERAL DEEP SEABED MINING
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LEGISLATION, THE QUESTION WAS RAISED REGARDING THE EXPLOI-

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TABILITY TEXT EXTENDING TO THE MIDDLE OF THE OCEAN. IN ADDITION, HE NOTED THAT THE ADJACENCY CONCEPT (ALSO FROM THE 1958 GEVEVA CONVENTION) WAS A FLEXIBLE ONE.

THE SOVIET UNION HAD THEIR EASTERN EUROPEAN ALLIES WELL PREPARED WITH RATHER LENGTHY STATEMENTS. THE GDR, UKRAINE, AND BULGARIA SUPPORTED THE SOVIET FORMULA AND LACK OF SUFFICIENT SCIENTIFIC BASE. THE GDR INDICATED THAT ONLY BIG WESTERN COUNTRIES AND SOUTH AFRICA HAD LARGE SHELVES UNDER THE IRISH FORMULA; AND SAID THAT REVENUE SHARING WAS ILLUSORY AND WOULD ONLY COME INTO PLAY AFTER 15 OR 20 YEARS. ROMANIA SUPPORTED THE 200-MILE THESIS, WHILE NOTING THE TREND WAS TO GO BEYOND, AND OPPOSED THE USE OF NATURAL CRITERIA (READ IRISH FORMULA). SINGAPORE, IN A CONFUSED AND CONFUSING INTERVENTION, MADE BOWS IN EVERY DIRECTION AND ASKED THE PROPONENTS OF THE IRISH FORMULA FOR THEIR OPINION ON REVENUE SHARING. (PRIVATELY THEY SUPPORT THE IRISH PROVISION). IRAQ, BAHRAIN, ALGERIA AND EGYPT FAVORED 200-MILES, WITH IRAQ CONSIDERING A DISTANCE CRITERION PLUS CERTAIN ASPECTS OF THE

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IRISH FORMULA. UGANDA FAVORED A DISTANCE CRITERION, BUT INDICATED THE NEED FOR MORE INFORMATION.

6. THE REPRESENTATIVE OF IOC (DESMOND SCOTT) MADE A STATEMENT (SENT SEPTTEL) EXPLAINING THE STATUS OF THE EFFORT: 1) TO SHOW THE EFFECTS OF THE APPLICATION OF THE SOVIET PROPOSAL ON THE MAP ALREADY PREPARED FOR THE CONFERENCE; AND 2) TO CARRY OUT A STUDY OF THE FINANCIAL AND OTHER IMPLICATIONS OF DEPICTING ON A NEW MAP THE 200-MILE, SOVIET, AND THE IRISH FORMULAE. HE INDICATED IT HAS NOT PROVED POSSIBLE TO GIVE ADEQUATE GUIDANCE ABOUT THE SOVIET FORMULA TO THE MAP-MAKERS.

7. NG-7 BEGAN DETAILED CONSIDERATION OF THE ALTERNATIVE COMPROMISES ON BOUNDARY DISPUTE SETTLEMENT PREPARED BY DR. SOHN'S EXPERT GROUP. ELEVEN SPEAKERS TOOK THE FLOOR TO COMMENT ON THE MERITS OF THE SEVEN BASIC MODELS CONTAINED IN THE STUDY. DEBATE WILL CONTINUE ON AUGUST 30.

8. DELEGATES ON BOTH SIDES OF THE ISSUE SEEMED TO RECOGNIZE THAT, IN COMBINATION WITH OTHER FORMULAE, SOME EXCEPTION WOULD HAVE TO BE MADE FOR MARITIME BOUNDARY DISPUTES WHICH INVOLVE CONFLICTING CLAIMS TO LAND TERRITORY. ONLY THREE DELEGATIONS (THE SOVIET UNION, TURKEY AND LESS CLEARLY VENEZUELA) EXPLICITLY SUPPORTED ONE OR MORE OF THE THREE MODELS WHICH PERMIT A STATE TO EXCEPT PRE-EXISTING DISPUTES FROM COMPULSORY SETTLEMENT.

9. THE REMAINING EIGHT SUBSTANTIVE INTERVENTIONS WERE MADE BY STATES WHICH FAVOR AS MUCH COMPULSORY SETTLEMENT OF BOUNDARY QUESTIONS AS POSSIBLE. FIVE OF THESE (MALTA, SPAIN, DENMARK, PAKISTAN, AND TUNISIA) GAVE STRONG

SUPPORT TO A STRENGTHENED VERSION OF THE PRESENT
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ICNT. TWO OTHERS (THE NETHERLANDS AND GREECE) INDICATED THAT THIS MODEL WOULD BE ACCEPTABLE. THE UNITED ARAB EMIRATES, MALTA, THE NETHERLANDS AND GREECE ALL FAVORED A FOUR-STEP PROCEDURE INVOLVING A PRELIMINARY DETERMINATION OF DELIMITATION PRINCIPLES FOLLOWED BY A PERIOD OF FURTHER NEGOTIATION, WITH FINAL COMPULSORY RECOURSE TO BINDING SETTLEMENT. SPAIN, DENMARK, PAKISTAN AND TUNISIA ALSO EXPRESSED INTEREST IN THIS MODEL.

10. FINALLY, FOUR STATES (MALTA, THE NETHERLANDS, SPAIN, AND PAKISTAN) APPROVED, AS A PARTIAL SOLUTION, A MODEL WHICH EXCEPTS ALL DISPUTE SETTLEMENT UNTIL ONE PARTY STARTS EXPLOITING OVER THE MEDIAN LINE OR IN THE DISPUTED AREA. SURPRISINGLY, BOTH GREECE AND TURKEY SHOWED INTEREST IN THIS IDEA, ALTHOUGH TURKEY'S SUPPORT SEEMS TO HAVE BEEN BASED ON A MISUNDERSTANDING OF THE MODEL.

11. NEGOTIATIONS IN COMMITTEE III CONTINUED IN INFORMAL SESSIONS CHAIRED BY VALLARTA. DURING THE FULL COMMITTEE, DISCUSSIONS CENTERED ON THE PROPOSAL SUBMITTED BY A GROUP OF ARAB STATES AND PORTUGAL TO AMEND ARTICLE 236 (RESPONSIBILITY AND LIABILITY). THE INTERVENTIONS BY FINLAND, USSR, NETHERLANDS, GREECE, SWEDEN, NORWAY, DENMARK, ITALY, AUSTRALIA, SINGAPORE, BELGIUM AND FRG STRESSED THAT THE SUBJECT OF LIABILITY AND COMPENSATION WAS BEST DEALT WITH IN GENERAL TERMS IN THIS TREATY, LEAVING THE DETAILED ELABORATION OF AN INTERNATIONAL REGIME TO ANOTHER FORUM. SPAIN, PORTUGAL, JAMAICA, ECUADOR, CANADA, CUBA, COLOMBIA, AND EGYPT NOTED CERTAIN DESIRABLE POINTS IN THE PROPOSAL AND SUGGESTED INCORPORATING ONE OR MORE OF THEM IN THE ICNT. FURTHER DISCUSSION AWAITS A REVISED PROPOSAL FROM SPAIN, EGYPT AND PORTUGAL.

12. AFTERNOON DISCUSSIONS IN THE SMALL WORKING GROUP REVIEWED A CANADIAN PROPOSAL DESIGNED TO AMEND ARTICLE
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221 (5), AND CONSIDER A VARIETY OF ALTERNATIVE FORMULAT-

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IONS TO GIVE COASTAL STATES THE AUTHORITY TO INSPECT
VESSELS IN THE ECONOMIC ZONE WHEN THERE IS A THREAT OF
SIGNIFICANT POLLUTION FOLLOWING A SUBSTANTIAL DISCHARGE.
A COMPROMISE PROPOSAL SUBMITTED BY THE US IS BEING CON-
SIDERED WITH FURTHER DISCUSSIONS ON THIS ISSUE POSTPONED
UNTIL AUGUST 31.

ALSO DISCUSSED WAS A BRAZILIAN AMENDMENT TO ARTICLE 211
(5) INTENDED TO MAKE CLEAR THAT NEIGHBORING STATES WHICH
ARE
CONSULTED REGARDING DUMPING (WHEN THEY MIGHT BE ADVERSELY
AFFECTED) DO NOT HAVE A VETO POWER OVER THE DUMPING.
A US REVISION OF THIS PROPOSAL APPEARS ACCEPTABLE AND
WILL BE TAKEN UP LATER IN THE WEEK.

13. THE SIX LANGUAGE GROUPS DISCUSSED RECURRING-WORDS-
AND-PHRASES. DECISIONS ON SEVERAL TEXTUAL CHANGES WERE
DEFERRED BECAUSE THEY BORDERED ON THE SUBSTANTIVE,
BUT ABOUT 20 PERCENT OF THIS PORTION OF THE WORK WAS
COMPLETED WITHIN THE ENGLISH GROUP. LEONARD
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